

**ORDINANCE NO. 2001-11-20-002**  
**(Revision of 1999-02-23-001)**

**AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS, PROVIDING REGULATIONS, DEVELOPMENT AND CONSTRUCTION STANDARDS FOR THE SUBDIVISION OF LAND WITHIN THE CITY AND ITS EXTRATERRITORIAL JURISDICTION; PROVIDING SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City must regulate the development and subdivision of land within the City and its extraterritorial jurisdiction to better provide an attractive living environment and to protect the health, safety and welfare of the present and future residents of the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEMPNER, TEXAS, THAT THE DEVELOPMENT AND SUBDIVISION OF LAND WITHIN THE CITY AND ITS EXTRATERRITORIAL JURISDICTION SHALL BE ACCOMPLISHED AS PRESCRIBED HEREIN.**

**ARTICLE I - GENERAL**

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**Section I - 1. Purpose.**

- (a) The purpose of this ordinance is to provide for orderly, safe and healthful development to promote the health, safety, and general welfare of the community. From and after the passage of this Ordinance, all plats and subdivisions of land within the corporate limits of the City, and all plats and subdivisions of land outside the corporate limits of the City that the Council may be petitioned to include within the corporate limits of the City by an extension of said corporate limits, and all tracts within the City's extraterritorial jurisdiction, shall conform to the following rules and regulations.
- (b) The system of improvements for thoroughfares, water and wastewater services, other utilities, drainage, public facilities and community amenities determine in large measure the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity and convenience are all factors which influence and determine a community's quality of life and character. A community's quality of life is of public interest. Consequently, the development of land, as it affects a community's quality of life, is an activity whose regulation is a valid function of municipal government.
- (c) The provisions contained herein are designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for insuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of this Ordinance, the interests of the public as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by the granting of certain rights and privileges.
- (d) This Ordinance is designed and intended to achieve the following purposes, and shall be administered so as to:
- (1) Assist orderly, efficient and coordinated development of land within the City's jurisdiction.
  - (2) Provide neighborhood conservation and prevent the development of slums and blight.

- (3) Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts.
  - (4) Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owner or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community.
  - (5) Provide the most appropriate design for each tract being subdivided.
  - (6) Provide an attractive relationship between the land as developed and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the proposed development, and to provide for the proper location and width of streets and building lines.
  - (7) Prevent pollution of the air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard both surface and groundwater supplies; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land.
  - (8) Preserve the natural beauty and topography of the municipality and ensure appropriate development with regard to these natural features.
  - (9) As appropriate, reconcile any differences of interest among the developer, other property owners and the City.
  - (10) Establish adequate and accurate records of land subdivision.
  - (11) Ensure that public or private facilities are available and will have a sufficient capacity to serve proposed subdivisions and developments within the City's jurisdiction.
  - (12) Standardize the procedure and requirements for developing property and submitting plans for review and approval.
  - (13) Protect and provide for the public health, safety, morals and general welfare of the community.
  - (14) Provide a healthy environment for the present and future citizens; an environment designed to reasonably secure safety from fire, flood and other dangers; and to provide that land be subdivided in a manner to attain such goals and benefits for the community.
  - (15) Protect the character and the social and economic stability of all parts of the community and encourage the orderly and beneficial development of all parts of the community.
  - (16) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land.
  - (17) Guide public and private policy and action in providing adequate and efficient transportation systems, water and wastewater systems, public utilities, and other public amenities and facilities.
  - (18) Encourage the development of a stable, prospering economic environment.
- (e) Certain minimum standards for land use, construction and development within the City limits are contained in the City's Zoning Ordinance, applicable building and plumbing codes, City Standard Details and Specifications, and this Ordinance. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design within both the City and its extraterritorial jurisdiction should be of a quality to carry out the purpose and spirit of the policies

expressed in the Master Plan and in this Ordinance, rather than be limited to the minimum standards required herein.

**Section I - 2. Authority.**

(a) This ordinance is adopted pursuant to the police powers of general law cities, and under authority of the Constitution and general laws of the State of Texas, including, but not limited to, *Chapt. 212, Tex. Loc. Gov't. Code.*

(b) In accordance with the City's police powers and authority, and as specifically authorized by *Chapt. 212, Tex. Loc. Gov't. Code*, and other applicable laws, the Planning and Zoning Commission, as a condition of subdivision plat or replat approval, shall require the owners and developers of land who desire to subdivide, plat or replat, or lay out any land for development within the City or its extraterritorial jurisdiction, for urban development or other purpose, to provide for building setback lines, to dedicate streets, alleys, parks, easements or other public places or facilities of adequate width and size and to coordinate street layouts and street planning with the City's Master Plan, with other municipalities, and with county, state and federally designated highways, as they may deem best in the interest of the general public, in order to provide for the orderly development of the areas and to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage and other facilities.

**Section I - 3. Jurisdiction.** Except as specifically provided otherwise herein, this Ordinance shall apply to all subdivisions and all related land development activities, as they are both defined herein, and all land, any part of which is located within the jurisdiction of the City. The jurisdiction of the City shall be defined as follows:

- (a) The corporate limits of the City of Kempner, Texas; and
- (b) The extraterritorial jurisdiction of the City of Kempner, Texas; and
- (c) Any additional area outside (1) and (2) above as permitted by law and which has been approved by the Council.

**Section I - 4. Policy.** In order to carry out the purposes hereinabove stated, it is hereby declared to be the policy of the City to consider the subdivision and/or development of land as subject to the control of the municipality, pursuant to the Master Plan, if any, as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the City and its jurisdiction. This Section shall be administered such that:

- (a) Land to be subdivided and/or developed shall be of such nature, shape and location that with proper and careful design and development it can be safely used for building purposes without danger to health or risk of fire, flood, erosion, landslide or other menace to the general welfare.
- (b) A Final Plat shall not be recorded until the necessary public utilities and facilities and other required improvements exist or arrangements are made for their provision.
- (c) Buildings, lots, blocks and streets shall be arranged so as to provide for an attractive and healthful environment and to facilitate fire protection, and provide ample access to buildings for emergency equipment.
- (d) Land shall be subdivided and developed with due regard to topography and existing vegetation with the object being that the natural beauty and natural resources of the land shall be preserved to the maximum extent possible.

(e) Existing features which would add value to development or to the City as a whole, such as scenic and special features, both natural and man-made, historic sites, and similar assets shall be preserved in the design of the subdivision whenever possible.

**Section I - 5. Applicability.** The provisions of this Ordinance, including design standards and improvement requirements, shall, except as specifically provided otherwise in this Ordinance, apply to all subdivisions of land within the jurisdiction of the City, including but not limited to the following forms of land subdivision and development activity:

- (a) The division of land into two (2) or more tracts, lots, sites or parcels, any part of which shall contain less than five (5) acres in area when subdivided,
- (b) The division of land into two (2) or more tracts, lots, sites or parcels, any part of which when subdivided shall contain five (5) acres or more in area and will require the dedication or conveyance of any access, public right-of-way, easement, or any public improvement;
- (c) Land previously subdivided or platted into tracts, lots, sites or parcels, which subdivision was subject to, but not in accordance with, City or County Ordinances in effect at the time of such subdividing or platting,
- (d) The combining of two (2) or more contiguous tracts, lots, sites or parcels for the purpose of creating one (1) or more legal lots in order to achieve a more developable site, except as otherwise provided herein;
- (e) Any Planned Unit Development for which two (2) or more lots, tracts, or parcels are designed, established or created for occupancy, use or a building site, or for which a building permit, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements is required by the City;
- (f) The platting of any existing legal deed-divided unplatted lot, parcel, site or tract;
- (g) The voluntary platting and recording of a subdivision plat dividing any land within the jurisdiction of the City into lots, parcels, sites or tracts;
- (h) Any plat having received approval from the Commission or the Council for which said approval has expired; or,
- (i) The dedication of any street or alley through any tract of land, regardless of the area involved.

## **ARTICLE II - ADMINISTRATION**

**Section II - 1. General.** For all development of land within the scope of this Ordinance, a plan of the development shall be prepared and submitted to the City for approval or disapproval, as provided for in this Ordinance.

- (a) **City Responsibilities.** The City shall administer the provisions of this Ordinance and in furtherance of such authority, the City shall:
  - (1) Maintain permanent and current records with respect to this Ordinance, including amendments thereto.
  - (2) Receive and file all Preliminary Plats, and Final Plats together with applications therefore.
  - (3) Forward copies of the Preliminary Plat, and Final Plat to the County, when the development is located within the City's extraterritorial jurisdiction.

- (4) Review all Preliminary Plats, Amended Plats, Short Form Plats and Final Plats to determine whether such plats comply with this Ordinance, the Master Plan, applicable laws, and the Zoning Ordinance, where applicable.
- (5) Forward plats to the Commission as required by this Ordinance, together with its recommendations thereon.
- (6) If required, forward plats to the Council, together with the recommendations of the Commission and City staff.
- (7) Make such other determinations and decisions as may be required of the City by this Ordinance, the Commission, or the Council.

(b) **Interpretation of Provisions.** In the interpretation and application of the provisions of this Ordinance, the following regulations shall govern:

- (1) In the City's interpretation and application, the provisions of this Ordinance shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare. This Ordinance shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
- (2) Whenever both a provision of this Ordinance and any other provision of this Ordinance, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.
- (3) Where there arises a question concerning the meaning or intent of a provision of this Ordinance, the City is hereby implored to render a written decision setting forth the exact manner in which said provision shall be interpreted and administered. In the event exception is taken by any interested party to such a decision the matter shall be appealed to the Commission, and, as appropriate, to the City Council, whose decision shall be final.
- (4) Any written decision shall be attached to and made a part of this Ordinance, until rescinded by amendment of this Ordinance as provided for herein.
- (5) The terms, provisions and conditions of this Ordinance shall be interpreted and applied in a manner consistent with Chapt. 212, Tex. Loc. Gov't. Code, and, particularly as to property within the extraterritorial jurisdiction of the City, Section 7(c).

**Section II - 2. Fees.** To defray the costs of administering this Ordinance, the applicant seeking plat approvals shall pay to the City, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the Council, and on file in the office of the City, together with all engineering and other professional fees and expenses incurred by the City for and with respect to such application and plat.

**Section II - 3. Amendments.** The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this Ordinance. This Ordinance may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

**Section II - 4. Violations.** Except as otherwise provided for in this Ordinance, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the City's jurisdiction for other than agricultural purposes, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this Ordinance.

## ARTICLE III - ENFORCEMENT

### **Section III - 1. Enforcement.**

- (a) **Administrative Action.** The City Engineer and/or the City Administrator shall enforce this Ordinance by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this Ordinance and good engineering practices, and the issuance of stop work orders.
- (b) **Enforcement of Regulations.** No subdivision of land within the City or its extraterritorial jurisdiction may be recorded until a Final Plat, accurately describing the property to be subdivided and platted, has been approved by the City in accordance with this Ordinance and applicable laws, signed and dated by the Chair of the Planning and Zoning Commission and/or other designated officers of the City, and filed in the Official County Records.
- (c) **Building Permits.** No building permit, certificate of occupancy, plumbing permit, electrical permit, flood plain permit, utility tap or certificate of acceptance for required public improvements shall be issued by the City for or with respect to any land within the City limits; and no flood plain permit, utility tap or certificate of acceptance for required public improvements shall be issued by the City for or with respect to land within the ETJ Limits:
- (1) For any parcel or plat of land which was developed after the effective date of, and not in conformity with, the provisions of this Ordinance; and/or
  - (2) Until,
    - (i) all improvements required by this Ordinance, have been constructed and accepted by the City, or
    - (ii) assurances for the completion of improvements have been provided in accordance with this Ordinance.
- (d) **Excavating, Clearing, or Construction.** No excavation or clearing of land, or construction of any public or private improvements shall take place or commence, within six (6) months preceding the date of application for the approval of any development or subdivision; and no such excavation, clearing of land or construction shall begin within any proposed subdivision until such time as the City Engineer approves the plans and specifications for such subdivision.
- (e) **Other Enforcements.** This ordinance may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this ordinance, with respect to any land or development within the City, by fine and penalties as provided herein.
- (f) **Court Proceedings.** Upon the request of the City Council the City Attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this Ordinance, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the City to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this Ordinance.
- (g) **Penalty.** Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein

## ARTICLE IV – DEFINITIONS

**Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The words, “shall” and “will” are mandatory and not permissive. The word “may” is permissive and not mandatory. The word “herein” means in this Ordinance. The word “regulations” means the provisions of any applicable ordinance, rule, regulation or policy. The word “person” means any individual, partnership, incorporated or unincorporated association, firm, corporation, governmental agency, political subdivision, or legal entity conducting business in accordance with this ordinance. The words “used or occupied” as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

***Access*** - means a way of approaching or entering a property.

***Acre*** - means a unit of area equal to 43,560 square feet. When calculating the acreage of any Lot the gross square footage within the Lot shall be used, provided any area within a private roadway easement or an easement for a Shared Access Driveway shall be excluded.

***Adjacent*** means abutting and directly connected to or bordering.

***Alley*** means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

***Applicant*** - means a person applying for plan approval under this Ordinance.

***Approval*** - means the final approval in a series of required actions. For instance, the approval date of a plat requiring approval of the Commission and then the Council is the date of Council approval.

***Arterial Street*** - means a street designed to provide a connection between major arterial streets.

***Base Flood Plain*** - means that area subject to inundation by flood, having a one percent probability of occurrence in any given year, based on existing conditions of development within the watershed area, as determined by the Flood Insurance Study for Lampasas County provided by the Federal Emergency Management Agency (FEMA).

***Block*** - means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or green strips, rural land, drainage channels, or a combination thereof.

***Bond*** - means any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council.

***Building or Setback Line*** - means a line or lines designating the interior limit of the area of a lot within which structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no structure or building may be erected between a building and the corresponding lot line.

***Building Permit*** - means a permit issued by the City of Kempner which is required prior to commencing construction or reconstruction of any structure.

***Buffer*** - means a barrier constructed of wood, masonry, vegetation, and/or other landscape material in such a manner that adjacent uses will be separated to such a degree that objectionable noise, heat, glare, visual clutter, dust, loss of privacy, air circulation, and other negative externalities shall be abated.

**Centerline** - when referring to a waterway or drainage, means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year flood plain.

**City** - means the City of Kempner, Texas.

**City Administrator** - means the chief administrative officer of the City of Kempner, Texas or his/her/her designated representative.

**City Council or Council** - means the Kempner City Council.

**City Limits** - means within the incorporated boundaries of the City.

**City Staff** - means the officers, employees and agents of the City assigned and designated from time to time by the City Administrator and/or Council, including but not limited to the City Engineer, to review and/or comment and report on development plans.

**City Standard Details and Specifications** - when published, means a library of City approved drawings and technical data representing typical drainage, transportation, erosion & sedimentation control, and utility appurtenances to be constructed for City acceptance.

**Collector Street** - means a street that collects traffic from local streets and serves as the most direct route to a major or minor arterial street.

**Commission** - means the Planning and Zoning Commission of the City, or the City Council if a Planning and Zoning Commission is not operational.

**Commissioners Court** - means the Lampasas County Commissioners Court

**Contiguous** - means adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

**Corner Lot** - means a lot located at the intersection of and abutting on two (2) or more streets.

**County** - means Lampasas County, Texas.

**County Appraisal District** - means the Lampasas County Appraisal District.

**Crossfall** - means the transverse slope as related to a given longitudinal slope and measured by the rise to run ratio.

**Crosswalk** - means a strip of land dedicated for public use and which is reserved across a lot or block for the purpose of providing pedestrian access to adjacent areas.

**Cul-de-Sac** - means a residential street having one (1) end open to vehicular traffic and having one (1) permanently closed end terminated by a vehicular turnaround.

**Dead-End Street** - means a street, other than a *cul-de-sac*, with only one outlet.

**Dedication** - means the grant of an interest in property for public use.

**Deed Restrictions** - means a restrictive covenant expressed in a contract between the buyer and the seller of real property that imposes duties on the buyer or restricts the buyer's use of the land. These restrictions are usually expressed in the form of language in the deed to the property.

**Design Storm** - means a probable rainfall event the frequency of which is specified in periods of years and which is used to design drainage facilities and determine flood elevations.

**Detention** - means the temporary storage of storm water runoff, with controlled peak discharge rates.

**Detention Time** - means the amount of time a body of water is actually present in a storm water detention facility.



**Developer (Subdivider)** - means any person or agent thereof, dividing or proposing to divide land so as to constitute a *Subdivision* as that term is defined herein. In any event, the term “*developer*” (“*subdivider*”) shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land sought to be subdivided.

**Developed Area** - means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

**Development** - means a subdivision of land as defined herein or the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, and the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover shall also not constitute development.

**Development Plan** - means a scaled drawing representing an area of land to be improved/developed and indicating the legal boundary of said property and the nature and extent of all existing and proposed improvements to said project. Development plans are not specified herein.

**Double Frontage Lot** - means a lot which runs through a block from street to street and which abuts two (2) or more streets.

**Drainageway** SEE: *Waterway*.

**Drainfield** - means private sewage facility, disposal area, trench or bed utilized for final wastewater disposal.

**Drive Approach** - means a paved surface connecting the street to a front lot line.

**Driveway** - means a portion of a lot used for access to the lot from a public highway, road, or street and not used for public circulation.

**Dwelling Unit** - means a residential unit designed to accommodate one (1) household

**Easement** - means a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

**Drainage Easement** - means the right for the passage of natural drainage across private land, together with the right to enter thereon for the purpose of maintaining drainage structures and the free flow of drainage.

**Non-Access Easement** - means an easement dedicated to the city prohibiting vehicular access.

**Utility Easement** - means an easement granted for installing and maintaining utilities, access, over or under land, together with the right to enter thereon with machinery and other vehicles necessary for the maintenance of utilities.

**Engineer** - means any person registered and currently licensed to practice engineering by the Texas State Board of Registration for Professional Engineers.

**City Engineer** - means the Engineer for the City of Kempner or his/her designated representative.

**County Engineer** - means the Engineer for the County of Lampasas or his/her designated representative.

**Environment** - means the aggregate of social and physical conditions that influence the life of the individual and/or community.

**Escrow Funds** - means a deposit of cash or other approved security with the local government or approved bank or other financial institution in-lieu of a performance or maintenance bond.

**ETJ Limits** - means the limits of the City's extra-territorial jurisdiction.

**Extraterritorial Jurisdiction (ETJ)** - means the unincorporated area, not a part of any city, which is contiguous to the corporate limits of any city. The extraterritorial jurisdiction of the various population classes of cities as granted under Chapter 43, Local Government Code.

**FEMA** - means the Federal Emergency Management Agency

**Filing Date** - means, with respect to plats and plans, the date of their first public hearing before the Commission regarding such plat or plan; provided that, with respect to the required Council approval of Preliminary Plats, the Filing Date for such Council approval shall be the date of the first public hearing by the Council.

**Flood Plain** - means channel of a waterway and the adjacent land area subject to inundation during the design storm.

**Floodway** - means channel of a waterway and the adjacent land areas that must be reserved in order to discharge the design storm without cumulatively increasing the water surface elevation.

**French Drain** - means a constructed feature that collects sub-surface water from poorly drained areas and carries it to a main drainage line, dry well, ravine, or the street.

**Front Yard** - means a space extending the full width of the lot between any building set back line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

**Frontage** - means that side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

**Gated Subdivision** - means a limited access Subdivision. SEE: *Subdivision*.

**G.I.S.** - means Geographic Information Systems

**Governing Body** - means the City Council of the City of Kempner, Texas.

**G.P.S.** - means Global Positioning System

**Grade** - means the slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

**Grading** - means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

**Improvements** - means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

**Individual On-Site Wastewater System or Private Sewage Facility** - means all systems and methods used for the disposal of sewage, other than organized sewage disposal systems. Private sewage facilities are usually composed of three (3) units: the generating unit (the residence, institution, etc.), treatment unit, and the disposal unit (the drainfield that may be an absorption trench or bed, or an evapotranspiration bed). A Private Sewage Facility includes a septic tank, seepage tile sewage disposal system or any other on-lot sewage treatment device approved and installed in accordance with all local, state and federal laws and regulations.

**Industrial** - means non-residential use of any site involved in manufacturing and/or external storage of goods; any site generating significant negative externalities, such as noise, dust, glare, etc. and/or any site where hazardous materials are stored and/or generated.

**Interior Lot** - means a lot other than a corner lot and, bounded by a street on only one (1) side.

**Landscape Development** - means trees, shrubs, ground cover, vines or grass installed in planting areas.

**Legal Lot** - means either a lot recorded in the Official County Records pursuant to and in compliance with the subdivision regulations in effect at the time of its creation, or a tract of land having existed in its present configuration prior to October 1, 1927.

**Legally Platted Lot** - means a lot which is part of a subdivision approved by the City and recorded in the Official County Records.

**Letter of Credit** - means a letter from a bank or other reputable creditor acceptable to the City that guarantees to the City that upon failure of the subdivider to fulfill any improvement requirements that at the City's request, funds will be provided to the City to complete the specified improvements.

**Local Health District** - means the Lampasas County Health District.

**Lot** - means subdivision of a block or other parcel intended as a unit for transfer of ownership, or for development, or for occupancy and/or use.

**Manufactured Home** - means a structure falling within the definition of manufactured housing in Art. 5221f, Texas Civil Statutes annotated.

**Manufactured Home Community** - means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, sold or offered for rental, lease, or sale for the installation of *Manufactured Homes* for use and occupancy as residences. As used in this Ordinance, this term shall include *Manufactured Home Subdivisions* and *Manufactured Home Rental Communities*, as defined herein. A single *Manufactured Home Community* may be both a *Manufactured Home Subdivision* and a *Manufactured Home Rental Community* if multiple lots will be both sold and leased, in which event the community must comply with both relevant sets of regulations.

**Manufactured Home Rental Community** - means a *Manufactured Home Community* in which two or more spaces or lots are rented, leased, or offered for rent or lease for a term of less than 60 months without a purchase option.

**Manufactured Home Subdivision** - means a *Manufactured Home Community* in which two or more of the spaces or lots are to be sold or offered for sale.

**Master Plan** - means the overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for means land intensities; land subdivision; circulation; and community facilities, utilities and services; and, if none, means professional urban planning and engineering practices.

**Multi-Family Residence** - means a duplex, triplex, quadraplex, apartments, condominiums, or townhouses as those structures are commonly defined.

**Natural Channel** - means the topography of a waterway prior to construction, installation of improvements or any regrading.

**Natural Drainage** - means a stormwater runoff conveyance system not altered by development.

**Neighborhood** - means the area of the City characterized by residential land uses which is bounded by physical (such as river, major street, back of access) and/or political features (such as voting districts, subdivision boundaries).

**Neighborhood Park** - means a privately owned parcel of land, within subdivision, dedicated solely for recreational uses and maintained by the residents of said subdivision.

**Official County Records** - means the Official Records of Lampasas County, Texas.

**Off-Site Improvements** - means any required improvement which lies outside of the property being developed.

**One Hundred (100) Year Flood Plain** - means that flood which has a probability of occurring once in a one hundred (100) year period or a one percent (1%) chance in any given year.

**Overland Drainage** - means stormwater runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

**Parent Tract** - means a tract or lot as described by deed or plat, which includes one (1) or more lots that are being subdivided.

**Park Fund** - means a special fund established by the City to retain monies paid by developers in accordance with the park land dedication provisions of these regulations and to be used for the purchase of park land or improvements in the vicinity of the subdivided property for which funds have been collected.

**Pavement Width** - means that paved portion of a street designed and constructed to sustain vehicular traffic and is exclusive of any surface to be used to park vehicles or to contain, control, and direct Design Storm surface runoff. Where curbs are laid, it is the portion between the face of curbs and may include a surface to be used to park vehicles or to contain, control, and direct Design Storm surface runoff.

**Person** - means any individual, partnership, incorporated or unincorporated association, firm, corporation, governmental agency, political subdivision, or legal entity conducting business in accordance with this ordinance.

**Planned Unit Development (PUD)** - means a subdivision, at least 250 acres in size and in the City's extra-territorial jurisdiction.

**Planning and Zoning Commission** - means the City of Kempner Planning and Zoning Commission.

**Plat** - means a map depicting the division or subdivision of lands into lots, blocks, parcels, tracts, or other portions. A replat or re-subdivision will be considered a plat.

**Plat, Preliminary** - means the maps, drawings, plans and specifications that indicate the boundaries of a tract or tracts under common ownership, identifies the purpose of the proposed development and the proposed land use, general lot or parcel layout, community use or public areas, and street alignments and which indicates the proposed location and design of improvements to be installed as part of a development in sufficient detail to indicate the suitability of the proposed subdivision of land and to determine compliance with requirements of this Ordinance.

**Plat, Final** - means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

**Playscape** - means any structure permanently anchored to the ground that is designed for recreational purposes. Sports courts such as basketball or tennis courts are not considered playscapes.

**Primary Structure** - means a structure in which the principal use of the lot is conducted. For example, for single family residential lots, the house is the primary structure.

**Privacy Fence** - means an opaque fence or screen at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not

exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

**Public** - means, with respect to land and interests in land within the City limits, the City; and, with respect to land and interests in land within the ETJ limits, the general public.

**Public Use** - means places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to churches, schools and government buildings.

**Rear Yard** - means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

**Required Yard** - means the open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

**Reserve Strip** - means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the City.

**Reverse Frontage Lot** - means a double frontage lot which is to be developed with the rear yard abutting a Collector Street and with the primary means of ingress and egress provided on a Residential Street.

**Right-of-Way** - means a strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water main, sanitary or storm sewer main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereinafter established and shown on the Final Plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

**Recreational Vehicle (RV)** - means a vehicle, such as a camper or a motor home, used for traveling and recreational activities.

**Road** - means any public or private road, street or highway that is entirely or partially located in an unincorporated area. A strip of land for travel between places.

**Same Ownership** - means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his/her/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**Secondary Structure** - means any structure that is subordinate and incidental to the primary structure; and is subordinate in area, extent and purpose to the primary structure; and contributes to the comfort, convenience or necessity of the occupants, business or industry in the primary structure, and is located on the same lot as the primary structure.

**Setback or Building Line** - means a line or lines designating the interior limit of the area of a lot between said line and the corresponding line within which area structures may not be erected. The building lines generally provide the boundaries of the buildable area of any given lot.

**Shall, Will, May** - the words, "shall" and "will" are mandatory and not permissive. The word "may" is permissive and not mandatory.

**Side Yard** - means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

**Slope** - means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

**Single Family Residence** - means a single structure occupied by a single family and which may be of conventional construction, an in-place home, manufactured home, or mobile home.

**Solid Waste** - means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities.

**Solid Waste Facility** - means all contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of solid waste. The term includes a publicly or privately owned solid waste facility consisting of several processing, storage, or disposal operational units such as one or more landfills, surface impoundments or a combination of units.

**State Plane Coordinate System** - means a coordinate system used by States to locate spatial information with a high degree of accuracy. This coordinate system is widely used in Texas for GIS (Geographic Information System) purposes. There are 5 zones and Lampasas County is in the Texas Central Zone. (The Lambert System)

**Street** - means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

**Street, Arterial** - means a major thoroughfare designed to move large volumes of traffic over longer distances at higher speeds. This is generally external to any subdivision. It may serve as link between collector streets and expressways.

**Street, Collector** - means a roadway designed with a primary function of collecting and distributing traffic between residential streets and the arterial street system.

**Street, Residential** - means a roadway designed to provide direct access to homes with no provision for through traffic.

**Street Line** - means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

**Street Side Yard** - means the side yard of a corner lot abutting the street right-of-way.

**Street Yard** - means a space extending across the length and/or width of a lot between the street right-of-way and the closest faces of the buildings on the lot.

**Structure** - means anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

**Structural Integrity** - means the ability of a structure to maintain stability against normal forces experienced by said structure.

**Subdivider (Developer)** - means any person or agent thereof, dividing or proposing to divide land so as to constitute a *Subdivision* as that term is defined herein. In any event, the term "subdivider" ("developer") shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land sought to be subdivided.

**Subdivision** - means the division or redivision of land into two (2) or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the City, or for laying out any subdivision

or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, renter, occupant, person or entity.

**Surveyor** - means any person licensed to practice surveying by the Texas Board of Professional Land Surveying.

**TNRCC** - means the Texas Natural Resources Conservation Commission

**Traffic Impact Analysis (TIA)** - means a study of the impacts of a development on the City's transportation system.

**TxDOT** - means the Texas Department of Transportation

**TxDOT Current Specifications** - means the Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges.

**Urbanization** - means the process of constructing public improvements required to support suburban or urban land use.

**Utilities** - means electric and/or telephone lines; water and/or sewer systems, or other buried or aerial utilities the construction of which may be regulated by the City, County, or State

**Variance** - means a grant of relief to a person from the requirements of this Ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Ordinance. This term has the same meaning as "Relief" in the County Subdivision Order.

**Watershed** - means area from which stormwater drains into a given basin, river or creek.

**Waterway** - means any natural or man-made channel conducting storm water from a two (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

**Working Days** - means Monday through Friday exclusive of City recognized holidays.

**Yard** - means an open space that lies between the principal or accessory building or buildings and the nearest lot line.

**Yard Depth** - means the shortest distance between a lot line and a yard line.

**Yard Line** - means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

**Zero Lot Line** - means the location of a building on a lot in such a manner that one (1) or more of the building's sides rests directly on or immediately adjacent to the lot line.

## **ARTICLE V - PLATTING PROCEDURE**

**Section V-1. Plat Requirement.** The owner of any tract of land divided into two or more parts to lay out a subdivision of the tract, including an addition; lots; or streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

**Section V - 2. Exemptions.**

- (a) The provisions of this Ordinance shall not apply to:
- (1) Sales of land by metes and bounds in tracts of five (5) acres or more in area, except as otherwise specifically provided in this Ordinance;
  - (2) Cemeteries complying with all State and local laws and regulations;
  - (3) Divisions of land created by order of a court of competent jurisdiction;
  - (4) Any subdivision of land for which a Preliminary Plat or Final Plat has been filed with the City on or before the effective date of this Ordinance, excluding any such plan or plat for which approval has expired or hereafter expires; or
  - (5) The combination of two (2) platted lots for the creation of a more developable site and the Planning and Zoning Commission finds that:
    - (i) The proposed use is the same as that for which the subdivision was platted by the subdivider; and
    - (ii) No increase is anticipated in the estimated traffic generation or utility demands; and
    - (iii) Offsite stormwater runoff is neither increased nor concentrated.
- (b) The provisions of this Ordinance shall not apply to the division of an existing legal lot, said division being caused by the City's acquisition of a part of said legal lot, when the Council finds that the acquisition by the City is in the best interest of the public health, safety and welfare of the citizens of Kempner and/or its extra-territorial jurisdiction. Upon the Council so finding, the resulting parcels shall be deemed to constitute legal lots for the purposes of developing under the requirements of this ordinance and other applicable City regulations. In creating said division, the Council is empowered to attach to the resulting parcels acquired by the City, and the remainder parcels not acquired by the City upon agreement with the owner, such conditions as it finds reasonable and necessary to offset any adverse effects resulting from the City's acquisition as a part of the original legal lot, in so far as any such condition is not contrary to the spirit and intent of the ordinance.
- (c) The provisions of this Ordinance shall not be construed, interpreted or applied to land located within the extraterritorial jurisdiction of the City in a manner to regulate:
- (1) the use of any building or property for any lawful purpose;
  - (2) the bulk, density or number of buildings on a tract or parcel of land;
  - (3) the floor to area ratio of any building to be constructed on any lot; or
  - (4) the number of residential units that can be built on an acre of land.

**Section V - 3. Variances.**

- (a) The Council may authorize variance(s) from these regulations in an open session when it is clearly shown the granting of relief in the form of a lesser standard will not impact adversely on public health, safety, general welfare, traffic conditions, and not alter the nature, character, and quality of the subdivision. No relief shall be authorized unless the Council finds:
- (1). That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
  - (2). That the relief is necessary for the preservation and enjoyment of a substantial property right of the applicant, and



(3). That the granting of the relief will not be detrimental to the public finances, health, safety or welfare, or injurious to other property in the area; and

(4). That the granting of the relief will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of the Ordinance.

(5). The applicant has not created the hardship from which relief is sought;

(b) Such finding of the Council together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Council meeting at which such relief is granted. Relief may be granted only when in harmony with the general purposes and intent of this Ordinance, and does not alter the nature, character and quality of the subdivision so that the public health, safety, and welfare are secured. **Pecuniary hardship to the developer shall not be the basis for any relief from these regulations.**

(c) Because the conditions for which the variance(s) from these regulations may be requested are reasonably expected to have existed prior to submittal of the Preliminary Plat, they shall be submitted at the time of submittal of the Preliminary Plat and will be considered in the same manner and time line as the Preliminary Plat. In no case will variances be sought as a remedy to inadequate preparation by the developer.

#### **Section V - 4. General Procedure.**

(a) Plats for the development of land within the scope of this Ordinance shall be drawn and submitted to the Commission and Council for their approval or disapproval, as provided in herein.

(b) Notwithstanding any provision of this Ordinance to the contrary, a developer shall not commence construction activities within the City's jurisdiction, including clearing and/or rough grading, before first obtaining all the City approvals required by this Ordinance.

(c) Generally, the subdivision process is comprised of two (2) individual steps, including the Preliminary Plat, and the Final Plat. Each step of the development process has established deadlines and expirations that must be met in order for the application and any approval(s) granted to remain valid, in effect and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.

#### **Section V - 5. Preliminary Plat.**

(a) **Purpose.** The Preliminary Plat provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage, and other information required to evaluate proposed subdivisions of land. A Preliminary Plat shall be required for any subdivision of land, except as otherwise provided for in this Ordinance, subsequent to Concept Plan approval.

(b) **Format.** The Preliminary Plat will be drawn on eighteen by twenty-four inch (18" x 24") sheet(s) at a scale of one (1) inch equals two hundred feet (1"=200') with all dimensions labeled accurately to the nearest foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1"=400') shall be attached to the plat.

(c) **Content.** The Preliminary Plat shall include all of the tract intended to be developed at one (1) time, and any off-site improvements required to accommodate the project. The Preliminary Plat shall contain or have attached thereto:

(1) General Information.

- (i) Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, land planner, etc.).
  - (ii) The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the City or within the extraterritorial jurisdiction of the City, provided however that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section or phase number.
  - (iii) The date, scale, and north indicator.
  - (iv) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
  - (v) The owner's name, deed or plat reference and property lines of property within three hundred (300) feet of the subdivision boundaries as determined by the most recent tax rolls.
  - (vi) Certification and signature blocks as required by the City and the County.
    - a) Certification from a registered professional engineer and approval by the State Health Department (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not required if the property will be served by the City water system.
    - b) Certification from the County Health District that a subdivision is located in an area which cannot reasonably be served by an organized wastewater collection system and that the use of septic tank or other means of disposal has been approved by the County Health District. Said certificate shall show the limitations, if any, of such approval.
  - (vii) The total acreage of the property to be subdivided and the subtotals by land use.
- (2) Existing Conditions.
- (i) The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
  - (ii) The scaled location of existing water courses, dry creek beds, wells, sinkholes and other similar topographic features.
  - (iii) Centerline of water courses, creeks, existing drainage structures and other pertinent data shall be shown.
  - (iv) The scaled location of areas subject to flooding shall be shown, delineating the regulatory one hundred (100) year floodplain, and any other floodplains identified in the City's Master Drainage Plan.
  - (v) Topographic data indicating one (1) foot contour intervals for slopes less than 5%, two (2) foot contour intervals for slopes between 5% and 10%, and five (5) foot contour intervals for slopes exceeding 10%. The contoured area shall extend outward from the property boundary for a distance equal to twenty-five percent (25%) of the

distance across the tract, but not fewer than fifty (50) feet nor more than two hundred (200) feet.

(vi) The locations, sizes and descriptions of all existing utilities, including but not limited to wastewater lines, lift stations, wastewater and storm sewer manholes, water lines, water storage tanks, and wells within the subdivision, and/or adjacent thereto.

(vii) The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown.

(viii) The location of City limit lines and/or outer border of the City's extra-territorial jurisdiction, as depicted on the City's most recent base map, if either traverses the subdivision or is contiguous to the subdivision boundary.

(3) Improvements.

(i) The location, size and description of any proposed drainage appurtenances, including storm sewers, detention ponds and other drainage structures proposed to be constructed on and off the site, and designed in accordance with the requirements of this Ordinance.

(ii) The developer shall include a copy of the complete application for flood plain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.

(iii) The location, dimensions, names and descriptions of all proposed streets, alleys, parks, open spaces, blocks, lots, reservations, easements and rights-of-way; and areas within the subdivision indicating the connection to or continuation of other improvements in adjacent subdivisions.

(iv) The location of building setback lines shall be indicated either by dashed lines on the plat or by specifications printed on the plat

(v) Numbers to identify each lot and each block.

(vi) The lengths of each proposed property line of all lots. The area of each non-rectangular lot shall be provided.

(4) Significant Trees. Within the boundaries of the subdivision the following requirements apply to any lot with more than 25% impervious cover and to the lots immediately adjacent to any such lot.

(i) Significant trees are those of 8-inch caliper and larger.

(ii) Significant trees shall be shown accurately to the nearest one (1) foot. Critical Root Zones of these trees shall also be shown.

(iii) The Critical Root Zones of significant trees to remain during construction will be shown as solid circles, and the Critical Root Zones of significant trees designated to be removed will be shown as dashed circles.

(iv) Replacement Trees shall be shown on the Preliminary Plat based on a replacement ratio (inches removed to inches planted) of

a) 1:2 for Significant Trees eighteen (18) inches in caliper and larger, and

b) 1:1 for Significant Trees between eight (8) and eighteen (18) in caliper.

- c) Replacement Trees shall not be required for the removal of trees smaller than eight (8) inches in caliper. The removal of Significant Trees larger than eighteen inches in caliper require Commission approval.

(5) Support Documents.

- (i) A drainage study, consisting of a Drainage Area Map with contours, location and capacities of existing and proposed drainage features, and calculations in accordance with this Ordinance and good engineering practices, shall be provided to ensure the property will be developed in accordance with City drainage policies.

- (ii) Utility demand data, consistent with the proposed uses indicated on the Preliminary Plat, to determine the adequacy and the consistency of proposed utility improvements.

- (iii) A letter of certification, when applicable, that the plat has been submitted to the County Health District for review (applicable to all projects proposing septic systems and/or containing any portion of the regulatory one hundred (100) year floodplain outside of the City limits).

(6) Accuracy of Data. The applicant shall be responsible for verifying the accuracy of all data submitted, including that which might be obtained from the City, excepting that data which can only be obtained from the City.

(d) **Procedure for Submittal.** A Preliminary Plat for any proposed subdivision of land, shall be submitted to the City for Commission approval.

(1) Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the Commission at which the Preliminary Plat is to be heard, along with the following:

- (i) Completed application forms and the payment of all applicable fees.

- (ii) A summary letter stating briefly the type of street surfacing, drainage, water and wastewater facilities proposed, and declaring the intent to either dedicate park land or pay fees-in-lieu of said dedication if such dedication or fees apply.

- (iii) A petition requesting annexation, if applicable.

- (iv) A letter requesting any variances from the provisions of this Ordinance.

- (v) Any attendant documents needed to supplement the information provided on the Preliminary Plat.

(2) For projects located within the City's extra-territorial jurisdiction, one (1) extra copy of the above referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for Preliminary Plan approval.

(3) City staff shall review all Preliminary Plat submittals for completeness at the time of application. If, in the judgment of City staff, the Preliminary Plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

(4) Prior to the Commission meeting at which the Preliminary Plat is presented, City staff shall review the plat for consistency with City ordinances, codes, policies and plans.

(5) City staff shall prepare a report analyzing the Preliminary Plat submittal, as well as any comments received concerning the Concept Plan, and recommending either the approval or

disapproval of the Preliminary Plat. This report shall be available at least five (5) working days prior to the Commission meeting.

(6) If the developer chooses to withdraw the Preliminary Plat, in writing, by noon of the third working day preceding the meeting Commission, the submittal may appear on the next Commission agenda after repayment of the applicable fees.

(e) **Notification.** The City shall publish a public notice at least once in a newspaper of general circulation in the City not fewer than fifteen (15) nor more than thirty (30) days prior to said public hearing.

(f) **Approval.**

(1) The Commission, after holding public hearings in accordance with City ordinances and codes, shall act on the request for Preliminary Plat approval.

(2) The failure of the Commission to act within thirty (30) days of the Preliminary Plat filing date shall be deemed an approval of the plat, except as otherwise agreed to by the developer.

(3) Zoning of the tract, if applicable, that shall permit the uses proposed by the Preliminary Plat, or any pending zoning amendment necessary to permit the proposed uses shall have been adopted by the Council prior to approval of the Preliminary Plat.

(4) Approval of the Preliminary Plat shall not constitute approval of the Final Plat, but shall constitute a vesting of the right to develop under City ordinances, codes and policies in effect on the date of the approval provided that neither the Preliminary Plat nor any subsequent plat or permit has been, or is, allowed to expire.

(5) The developer should be aware that specific approvals from other agencies may be required.

(6) Upon approval of the Preliminary Plat, the developer shall furnish one (1) Mylar reproducible copy of the approved Plat to be kept on file at the City as public record.

(f) **Expiration.**

(1) The approval of the Preliminary Plat shall expire twelve (12) months after the filing date, unless:

(i) a corresponding Final Plat on all, or a portion of, the land approved on the Preliminary Plat is filed, or

(ii) an extension is granted by the Commission in accordance with this Ordinance.

(2) If a Preliminary Plat expires, it may be reinstated only upon resubmittal of the unaltered, approved plat to the Commission and Council and the approval by both bodies. All fees shall be repaid as if the plat were initially being submitted.

(g) **Extension.** The developer may apply for an extension, in writing, prior to the end of the initial twelve (12) month period, stating reasons for needing the extension and demonstrating pursuit of approval for Final Plat in accordance with this Ordinance. Upon receipt of this written request, the Commission may, at its discretion, grant up to a two (2) year extension so long as the Preliminary Plat remains consistent with the Master Plan and/or ordinances of the City.

(h) **Revision.** If a revision to a previously approved Preliminary Plat is required, then no application for Final Plat shall be accepted until the revised Preliminary Plat has been submitted and approved by the Commission. This signed, approved document shall be kept on file as public record in the offices of the City.

(i) **Responsibility.** Notwithstanding the approval of any Preliminary Plat by the Council, Commission or the City Engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

**Section V - 6. Final Plat.**

(a) **Purpose.** The Final Plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities, drainage, and other information required for the maintenance of public records of the subdivision of land.

- (1) A Final Plat shall be required for all subdivisions of land.
- (2) The Final Plat shall conform to the approved Preliminary Plat.

(b) **Format.** The Final Plat shall be drawn on eighteen inch by twenty-four inch (18"x24") Mylar sheets at a scale of one (1) inch equals two hundred feet (1"=200') with all dimensions labeled accurately to the nearest one tenth (1/10) of a foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1" = 400') shall be attached to the plat.

(c) **Content.** The Final Plat shall include all of the tract intended to be developed at one (1) time, and shall contain or have attached thereto:

- (1) General Information.
  - (i) The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the City or within the extra-territorial jurisdiction of the City; provided however, that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section number.
  - (ii) The date, scale, north point, addresses of the owner of record, developer, registered public surveyor, and registered professional engineer if required, platting the tract. The engineer and surveyor shall affix their seals to the plat in conjunction with the signing of the certification requirements.
  - (iii) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
  - (iv) Identification and location of proposed uses and reservations for all lots within the subdivision.
  - (v) The owner's names and the property lines of property within three hundred (300) feet of the subdivision boundary, together with the respective plat or deed references as determined by the most recent tax rolls.
  - (vi) Certification, signature and revision blocks as required by the City and County, including but not limited to the following:
    - a) Certification from a registered professional engineer and approval by the State Health Department (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not required if the property will be served by the City water system.



surveyor shall certify that all lots meet the City's minimum requirements set forth herein.

(v) The use, property dimensions, names and boundary lines of all special reservations to be dedicated for public use, including sites for schools, churches, parks and open spaces; common ownership; or subsequent development.

(vi) The location of building setback lines indicated by dashed lines or specifications printed on the plat, and the location, dimensions, and descriptions of all required easements within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries.

(vii) The proposed location of sidewalks for each street, to be shown as a dotted line inside the proposed right-of-way lines.

(5) Support Documents. The following supporting documents must accompany the Final Plat:

(i) Developer shall include a copy of the approved application for flood plain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.

(ii) If a subdivision is located in an area served by any utility other than the City, the developer shall furnish a letter from such utility certifying their approval of the location of the utility easements shown on the plat and indicating the utility's intent to serve the property, except that said letters are not required if the easements conform to those approved on the Preliminary Plat.

(iii) If the construction of all improvements needed to serve the subdivision is not completed prior to the filing of the plat for recordation then the developer must provide financial assurance for the completion of the remainder of those improvements in accordance with this Ordinance.

(6) The applicant shall be responsible for verifying the accuracy of all data submitted.

(d) **Procedure for Submittal.** After approval of the Preliminary Plat for a proposed subdivision, a Final Plat for that subdivision shall be submitted to the City for Commission approval before recordation.

(1) Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the Commission at which the Final Plat is to be heard, along with the following:

(i) Completed application forms and the payment of all applicable fees.

ii) Any materials or documents required by the Commission and/or Council as a condition of Preliminary Plat approval.

(iii) A letter requesting any variances from the provisions of this Ordinance, if not previously approved as part of the Preliminary Plat, and posted pursuant to the requirements this Ordinance.

(iv) Two (2) copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the Final Plat.

(v) Certification from all applicable taxing authorities that all taxes due on the property have been paid.

(vi) Performance and maintenance guarantees as required by the City.



(vii) Any attendant documents needed to supplement the information provided on the Final Plat.

(2) For projects located within the City's extra-territorial jurisdiction, one (1) extra copy of the above referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for Final Plat approval.

(3) City staff shall review all Final Plat submittals for completeness at the time of application. If, in the judgment of City staff, the Final Plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

(4) Prior to the Commission meeting at which the Final Plat is presented, City staff shall review the plat for consistency with City codes, policies and plans.

(5) City staff shall prepare a report analyzing the Final Plat submittal, as well as any comments received concerning the Preliminary Plat, and recommending the either approval or disapproval of the Final Plat. This report shall be available at least five (5) working days prior to the Commission meeting.

(6) If the developer chooses to withdraw the Final Plat, in writing, by noon of the third working day preceding the meeting Commission, the submittal may appear on the next Commission agenda after repayment of the applicable fees.

(e) **Notification.** Public notification of Final Plats filed as part of an approved Preliminary Plat shall not be required.

(f) **Approval.** The Commission, after holding a public hearing, shall act on the request for Final Plat approval.

(1) The failure of the Commission to act within thirty (30) days of the Final Plat filing date shall be deemed an approval of the plat, except as otherwise agreed to by the developer.

(2) The developer shall begin construction of the required public improvements or file a financial surety instrument for the improvements within six (6) months after Final Plat approval by the Commission, or such approval of the Final Plat shall be void.

(3) Unless the Final Plat is recorded in the Official County Records within twelve (12) months after approval by the Commission, such approval of the Final Plat shall be void, except that the developer may apply in writing to allow extension of approval prior to the end of such twelve (12) month period, stating just cause therefore, and the Commission may grant an extension not to exceed one (1) year.

(4) Zoning of the tract, if applicable, that shall permit the proposed use, or any pending zoning amendment necessary to permit the proposed use shall, have been adopted by the Council prior to approval of the Final Plat.

(5) The developer should be aware that specific approvals from other agencies may be required.

(6) The City engineer and developer's engineer must certify that the design standards of Article III have been complied with and that the development and improvements meet sound engineering practices.

(g) **Revision.** If revision of the Final Plat is required by the Commission, then the Final Plat shall not be recorded until the revised Final Plat has been resubmitted and approved by City staff for compliance with the Commission's requirements, and the Council's requirements, if any.

(h) **Recordation.**

- (1) Prior to the recordation of the Final Plat, one (1) original copy of the Final Plat shall be submitted to the City for signatures, and
  - (i) The Final Plat shall have been approved by the Commission pursuant to the provisions of this Ordinance.
  - (ii) All conditions of Final Plat approval established by the Commission shall have been determined to be complete by City staff.
  - (iii) Construction plans for all required improvements shall have been approved by the City Engineer.
  - (iv) Fees-in-lieu of park land dedication as required by this Ordinance, if applicable, shall have been paid.
  - (v) Performance and maintenance guarantees for all required improvements shall have been established pursuant to this Ordinance.
  - (vi) Copies of any agreements required providing for the proper and continuous operation, maintenance, and supervision of any facilities that are of common use or benefit which cannot be satisfactorily maintained, or which have been rejected for operation and/or maintenance, by an existing public agency shall be executed.
  - (vii) Written acceptance of all improvements required by this Ordinance by the City Engineer or, in lieu of acceptance, assurance of completion of said improvements pursuant to this Ordinance, shall be received by the City.
  - (viii) Applicable fees pursuant to City ordinance shall be paid, including, but not limited to, all professional fees, engineer, and attorney fees incurred by the City for or with respect to the review, processing and approval of the application for the approval of the subdivision plat.
  - (ix) Notes shall be added to the plat describing any variances approved by the Commission.
- (2) City staff shall, upon determination that all provisions of this Ordinance have been satisfied, and all the above conditions have been met, obtain signatures certifying Final Plat approval by the Chairperson of the Commission, and the Mayor, as attested to by the City Secretary.
- (3) Once the original Final Plat has been certified by the Chairperson of the Commission and the Mayor, City staff shall notify the developer that the original Final Plat is ready for reproduction.
- (4) The developer, at his/her own expense, shall make two (2) photographic Mylar copies of the original, signed Final Plat, and return the photographic Mylar copies and the original Final Plat to the City Engineer for recordation.
- (5) If the land area represented by the subdivision is located outside the corporate limits of the City on the date of its filing for recordation with the Official County Records, then it must be approved by the Commissioners Court of the County prior to recordation. It shall be the responsibility of the developer to be familiar with the process, procedures, and requirements necessary to secure County approval. Such approval shall be evidenced by the signature of the statement of certification by the County Judge.
- (6) City staff shall, after the photographic Mylar copies and the original Final Plat have been duly recorded in the Official County Records, return the original Final Plat to the

developer within five (5) working days by notifying the developer that the original Final Plat is available for pick-up at the office of the City Engineer.

(7) The City shall keep one (1) photographic Mylar copy of the original approved Final Plat on file as public record.

(i) **Responsibility.** Notwithstanding the approval of any Final Plat by the Council, Commission or the City Engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

**Section V - 7. Short Form Final Plats.** (This Provision and any references to the Short Form Final Plats in this Ordinance are rescinded.) (Revision approved June 25,2002).

**Section V - 8. Amended Plats.**

(a) **Purpose.** An Amended Plat that meets all of the informational requirements set forth in this Ordinance may be approved and recorded by the City without vacation of the preceding plat, without a public hearing, and without approval of other lot owners within the platted subdivision provided that any persons with a vested interest affected by the plat amendment signs the plat and application; and that the purpose of the Amended Plat is:

- (1) To correct an error in any course or distance shown on the preceding plat; or...
- (2) To add any course or distance that was omitted on the preceding plat; or...
- (3) To correct an error in the description of the real property shown on the preceding plat; or...
- (4) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments; or...
- (5) To show the proper location or character of any monument which has been changed in location, character, or shown incorrectly on the preceding plat; or...
- (6) To correct any other type of scrivener or clerical error or omission as previously approved by the Commission and Council; such errors and omissions may include, but are not limited to: lot numbers, acreage, street names, and identification of adjacent recorded plats; or...
- (7) To correct an error in courses and distances of lot lines between two (2) adjacent lots where lot owners join in the application for an Amended Plat and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat; or...
- (8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or...
- (9) To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner or owners of all such lots join in the application for the Amended Plat, provided that such amendment does not attempt to remove recorded covenants or restrictions, or Increase the number of lots.

(b) **Format.** The format of an Amended Plat shall be the same as the format for a Final Plat.

- (c) **Content.** The content of an Amended Plat shall be the same as the content requirements for a Short Form Final Plat.
- (d) **Procedure.**
- (1) The Amended Plat may be submitted without re-approval of a Preliminary Plat or Construction Plans. The Amended Plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the City for approval before recordation of the plat.
  - (2) Legible prints, as indicated on the application form shall be submitted to the City along with the following:
    - (i) Completed application forms and the payment of all applicable fees.
    - (ii) Certification from all applicable taxing authorities that all taxes due on the property have been paid.
    - (iii) Any attendant documents needed to supplement the information provided on the plat.
    - (iv) The City shall require the following note on the Amended Plat: This subdivision is subject to all general notes and restrictions appearing on the plat of \_\_\_\_\_, Lot(s) \_\_\_\_\_, recorded at Cabinet \_\_\_\_\_, Slide \_\_\_\_ of the Plat Records of \_\_\_\_\_ County, Texas.
- (e) **Notification.** Public notification and public hearings shall not be required for an Amended Plat.
- (f) **Approval.** The City Engineer shall approve any Amended Plat meeting the requirements of this Ordinance within thirty (30) days of receipt of a complete submittal. However, if in the City Engineer's determination, the Amended Plat does not satisfy this Ordinance, the City Engineer may require the plat to be processed in accordance with the Final Plat procedures of this Ordinance.
- (g) **Expiration.** Approval of an Amended Plat shall expire if said plat is not recorded in the plat records of the County within six (6) months of City approval.
- (h) **Recordation.** Recordation of an Amended Plat shall follow the same recordation provisions of a Final Plat.
- (i) **Responsibility.** Notwithstanding the approval of any Amended Plat by the City Engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

## ARTICLE VI. IMPROVEMENTS

### **Section VI - 1. Improvements.**

- (a) **Purpose.** The provisions of this Ordinance, as set forth in this Section, are designed and intended to insure that, for all subdivisions of land within the jurisdiction of the City, all improvements as required herein are installed in a timely manner in order that:
- (1) The City can provide for the orderly and economical extension of public facilities and services.
  - (2) All purchasers of property within the subdivision shall have a usable, buildable parcel of land.
  - (3) All required improvements are constructed in accordance with the City Standard Details and Specifications.

(b) **General Policy.**

(1) Upon approval of a Final Plat, Amended Plat or Short Form Plat by the Commission, and prior to it being signed by the Chairperson of the Commission and the Mayor of the City, and before said Final Plat, Amended Plat or Short Form Plat shall be allowed to be recorded in the Plat Records of the County, the applicant requesting plat approval shall, within the time period for which the Plat has been conditionally approved by the City:

- (i) Construct all improvements as required by this Ordinance, and provide a surety instrument guaranteeing their maintenance as required herein; or
- (ii) Provide a surety instrument guaranteeing construction of all improvements required by this Ordinance, and as provided for herein.

(2) In all instances, the original copy of the Final Plat, Amended Plat or Short Form Plat, without benefit of required signatures of City Officials, shall be held in escrow by the City and shall not be released for any purpose until such time as the conditions of this Section are complied with.

(3) Upon the requirements of this Section being satisfied, the Final Plat, Amended Plat or Short Form Plat shall be considered fully approved, except as otherwise provided for in this Ordinance, and the original copy of the Plat shall be signed by the appropriate City officials and City staff shall file said Plat in the Plat Records of the County.

(4) All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage and streets and to create continuity of improvements for the development of adjacent properties. Water, wastewater, transportation and drainage improvements shall be extended to the perimeter of the development, except that the Commission is authorized to vary or modify the requirement for extending water, wastewater, transportation and drainage improvements to the perimeter of a subdivision in accordance with the procedural requirements contained in this Ordinance.

(c) **Completion of Improvements.** Prior to the signing of the approved Final Plat, Amended Plat or Short Form Plat by the Chairman of the Commission and Mayor of the City of Kempner, the developer shall:

- (1) Complete all improvements required by this Ordinance in accordance with the approved Construction Plans and subject to the approval of the City Engineer and acceptance by the City, except as otherwise provided for in this Ordinance.
- (2) Construct all sidewalks as shown on the approved Construction Plans and according to the City Standard Details and Specifications. Sidewalks must be constructed and approved for each lot prior to issuance of a certificate of occupancy.

(d) **Alternative to Completing Improvements.** The City may waive the requirement that the developer complete all improvements required by this Ordinance prior to the signing of the approved Plat, contingent upon securing from the developer a guarantee, as provided for by this Section, for completion of all required improvements, including the City's cost for collecting the guaranteed funds and administering the completion of improvements, in the event the developer defaults. The Commission and Council must be notified that this waiver was granted at the time of Preliminary Plat approval or in the case of Amended Plats or Short Form Plats upon notice and approval. Such guarantee shall take one (1) of the following forms:

- (1) **Performance Bond.** The developer shall post a performance bond with the City, as set forth herein, in an amount equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements, using the standard City form.

(2) Escrow Account. The developer shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a bank or savings and loan institution. Such escrow account agreement shall be prepared using the standard City form. The use of any instrument other than cash shall be subject to the approval of the City. The amount of the deposit shall equal one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the developer shall file with the City an agreement between the financial institution and the developer guaranteeing the following:

(i) That the funds of said escrow account shall be held in trust until released by the City and may not be used or pledged by the developer as security in any other matter during that period.

(ii) That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall immediately make the funds in said account available to the City for use in the completion of those improvements.

(3) Letter of Credit. The developer shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be submitted to the City using the standard City form and shall certify the following:

(i) That the creditor does guarantee funds equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements.

(ii) That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.

(iii) That this letter of credit may not be withdrawn, or reduced in amount, until approved by the City according to provisions of this Ordinance.

(4) Cost Estimates. A registered professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the City Engineer who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.

(5) Surety Acceptance. The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account, pursuant to this Ordinance, shall meet or exceed the minimum requirements established by City ordinance and shall be subject to approval by the City as provided in the ordinances of the City.

(6) Sufficiency. Such surety shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in this Ordinance. All such surety instruments shall be both a payment and performance guarantee.

(7) If the project is located in the extraterritorial jurisdiction of the City, and is subject to the bonding requirements of the County for the construction of roadways, then that amount of money shall be reduced from the amount required to be posted with the City, provided that the instrument is transferable from the County to the City upon annexation.

(e) **Time Limit for Completing Improvements.** The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior approval of the City, exceed one (1) year from date of Final, Amended or Short Form Plat approval.

(1) The Commission may, upon application of the developer and upon proof of hardship, recommend to the Council extension of the completion date set forth in such bond or other instrument for a maximum period of one (1) additional year. Such hardship may include delays imposed due to City projects. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a registered professional engineer, licensed to practice in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to one hundred ten percent (110%) of the updated estimate of construction costs as approved by the City Engineer.

(2) The Council may at any time during the period of such surety instrument accept a substitution of principal sureties upon recommendation of the Commission.

(f) **Failure to Complete Improvements.** Approval of all plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one (1) year of plat approval, unless otherwise approved by the City. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the City may declare the developer and/or surety to be in default and require that all the improvements be installed.

(g) **Inspection and Acceptance of Improvements.** The City Engineer shall inspect all required improvements, to insure compliance with City requirements and approved Construction Plans.

(1) When all required improvements have been satisfactorily completed, the City Engineer shall either:

- (i) accept, in writing, the improvements as having been satisfactorily completed, or
- (ii) issue a punch list to the developer denoting items remaining to be completed.

(2) The City Engineer shall have ten (10) working days to complete this inspection upon notification by the developer.

(3) The City Engineer shall issue the report within ten (10) working days of the date of inspection.

(4) The City shall not accept dedications of required improvements nor release or reduce a performance bond or other assurance, until such time as it determines that:

- (i) All improvements have been satisfactorily completed.
- (ii) Two (2) copies of as-built plans have been submitted to and approved by the City Engineer, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.
- (iii) Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the City Engineer.
- (iv) Diskette(s) containing computed generated drawings of all public improvements shown on the Construction Plans have been submitted to the City Engineer to update City record drawings.
- (v) The required maintenance guarantee has been provided.
- (vi) Any and all other requirements identified in the platting process have been satisfied.

(h) **Reduction or Release of Improvement Surety Instrument.**

(1) A surety instrument may be reduced with the approval of the City Engineer, and the Treasurer/Director of Finance, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the City Engineer.

(2) Before the City shall reduce said surety instrument, the developer shall provide a new surety instrument in an amount equal to one hundred ten percent (110%) of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this Ordinance.

(3) The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the developer as specified in the performance surety instrument.

(4) In no event shall a surety instrument be reduced below ten percent (10%) of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion of all required improvements.

(5) The City shall not release a surety instrument unless and until all the conditions of this Ordinance have been met.

(i) **Maintenance Bond Required.**

(1) Before the release of any surety instrument guaranteeing the construction of required subdivision improvements or the signing of the Final, Amended or Short Form Plat where subdivision improvements were made prior to the filing of the plat for recordation, the developer shall furnish the City with a maintenance bond or other surety to assure the quality of materials and workmanship, and maintenance of all required improvements including the City's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements in the event the developer defaults.

(2) The maintenance bond or other surety instrument shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution.

(3) Said bond or other instrument shall be in an amount equal to ten percent (10%) of the cost of improvements verified by the City Engineer and shall run for a period of one (1) calendar year measured from the date of release of the performance surety instrument, or signing and recording of the Final Plat whichever is later.

(4) In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the City may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced.

(5) Whenever a defect or failure of any required improvement occurs within the period of coverage, the City shall require that a new maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.

(j) **Plans for Improvements.** Plans for the improvements required by this Ordinance shall be prepared, reviewed and approved in accordance with the provisions set forth in this Ordinance.

(k) **Acceptance of Improvements.**

(1) During the course of installation and construction of the required improvements, the City Engineer or his/her designated representative shall make periodic inspections of the work to insure that all improvements comply with City requirements.



(2) Upon completion of all required improvements, the developer may seek acceptance of all public improvements by the City by following the procedures set forth in the applicable sections of this Ordinance.

(1) **Maintenance of Improvements.** Where a subdivision contains drainage, transportation, water or wastewater improvements, parks and grounds held in common, or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which will not be, or cannot be, satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the City Council for the proper and continuous operation, maintenance, and supervision of such facilities. A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to and approved by the Council, and approved as to form by the City Attorney, at the time of Final Platting and shall be filed of record with the plat thereof.

## ARTICLE VII DESIGN STANDARDS

### **Section VII - 1. General.**

(a) **Additional Regulations.** In addition to the requirements established by this Ordinance, all development within the City limits shall be designed so as to comply with the intent and provisions of the Zoning Ordinance, building and housing codes, Master Plan, regulations of the Texas Department of Transportation and the Texas Department of Health, and any other applicable law or regulation adopted by a unit of federal, state or local government; and all development within the extraterritorial jurisdiction of the City shall comply with this Ordinance and all other applicable laws and regulations adopted by a unit of federal, state or local government.

(b) **Standards In General.** The minimum design standards as contained herein shall provide the basic criteria for evaluating proposed concept plans, preliminary plats, construction plans, final plats, amended plats, short form final plats, and other development or improvements subject to this ordinance. The City may, however, establish reasonable design requirements in excess of these established minimum standards, or grant variances from those established minimum standards, where by reason of exceptional topographic, cultural, historic, archaeological, hydrologic, or other physical conditions of the property to be developed or of an adjacent tract, the strict adherence to these standards will result in an inappropriate subdivision design or cause unnecessary hardship.

(c) **Coordinated Design.** The quality of life and the community in the Kempner urban area is dependent on the quality of design of the individual developments in which people live and work. Good community design requires the coordination of the efforts of each developer of land within the urban area. It is intended that the urban area shall be designed as a group of integrated residential neighborhoods and appropriate commercial, industrial and public facilities. Therefore, the design of each development shall be prepared in accordance with the applicable principles established by the Master Plan for land use, circulation, community facilities and public utility services and in accordance with the following general principles:

(1) The neighborhood, as a planning unit, is intended as an area principally for residential use, and of a size that can be served by one (1) elementary school. Space for recreational, educational and shopping facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood. The size of lots and blocks should be designed to provide for adequate water and wastewater service, traffic circulation, light, air, open space, landscaping and off-street parking. The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved to the

greatest extent possible. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual qualities of the area.

- (2) The components of the street system should in different degrees serve the separate purposes of access to property and safe, efficient movement of traffic. Land use types should be served by roadways whose capacity increases in proportion to the traffic generation of the land use. Design and location of points of access to property should be appropriate to the volume and speed characteristics of traffic utilizing the intersection.
- (3) An open space system throughout the urban area should provide a range of active and passive recreation opportunities. Park, open space and recreation facilities should be located with sensitivity to user population, natural features, traffic generation, and nearby land use.
- (4) Land use arrangement and design should minimize the difference in intensity between adjacent uses in order to provide for the provision of water, wastewater and roadways sufficient to serve the proposed densities and provide for compatible neighboring developments. Step-down patterns of use surrounding major activity centers, combined with buffering techniques, should ensure that residential densities are compatible with each other, and that residential development is not adversely impacted by higher intensity uses.
- (5) Public utilities and infrastructure should be provided within all subdivisions in order to ensure the health, safety and well-being of the public. Utility capacity should be sufficient to meet accepted standards of service to reasonably anticipated development. Where excess capacity in utility lines or facilities within a subdivision will further the efficient and desirable extension of utilities to adjacent property, equitable provision of such capacity is essential to the orderly growth of the urban area.
- (6) Construction of water, wastewater, drainage, gas, electric, telephone and cable television utilities that require utility cuts of a public street shall be repaired pursuant to applicable City ordinances.

**Section VII - 2. Blocks and Lots.** Except as provided otherwise in this Ordinance, the terms and provisions of the Zoning Ordinance establishing the minimum lot area, width, setback line, side yard and rear yard requirements for each zoning or use category are incorporated herein by reference. Such regulations and standards shall be applied to property within the City limits based upon the zoning of the property and to property within the extraterritorial jurisdiction based on agreement of, and the land use proposed by, the developer.

(a) **Blocks.**

- (1) The length, width, and shape of blocks shall meet the following standards:
  - (i) Provide adequate building sites (lots) suitable to the special needs of the type of use designated on the plat;
  - (ii) Accommodate lots of the size and dimensions required by this Section;
  - (iii) Provide for convenient access, circulation, control, and safety of street traffic;
  - (iv) Minimize reductions in the capacity of adjacent streets in so far as possible by reducing the number of turning movement conflicts;
  - (v) Provide an appropriate response to the limitations and opportunities of topography; and,
  - (vi) Increase the ability of building sites (lots) to receive or to be protected from solar gain as the season requires in order to improve utility efficiency and increase the livability of each lot.

- (2) Residential blocks shall not exceed one thousand three hundred (1,300) feet nor be less than five hundred (500) feet in length, except as otherwise provided for herein.
- (3) Blocks along arterial streets shall not be less than one thousand six hundred (1,600) feet.
- (4) The width of blocks shall be sufficient to accommodate two (2) tiers of lots with minimum depth as required by this Section, exceptions to this width shall be permitted in blocks adjacent to major streets, railroads, waterways, or other topographical features prohibiting a second lot tier.
- (5) The Commission may, at the Preliminary Plat phase, require the dedication of an easement or right-of-way not less than ten (10) feet wide bisecting the center of any block in excess of eight hundred (800) feet in length to accommodate utilities, drainage facilities, and/or pedestrian access to greenbelts or park areas.
- (6) Blocks shall be identified on each plat by consecutive adjacent numbers within each subdivision and portion thereof. Blocks forming a continuation of a previous subdivision block shall continue the block number.

(b) **Lots.** All land area within the boundaries of the subdivision or resubdivision except that area specifically dedicated as public right-of-way for any purpose shall be designated as a lot.

- (1) The required lot area, width, building setback line, front, side, street side and rear yard requirements for each lot as established in the Zoning Ordinance are incorporated herein by reference.
  - (i) Within the City limits such requirements and standards shall be based on the zoning of the property, and,
  - (ii) Within the extraterritorial jurisdiction, such requirements and standards shall be based on the agreement of, and land use proposed by, the developer.
- (2) The minimum lot size for all lots shall be 22,000 square feet.
- (3) Each lot shown on a plat shall be clearly designated by a number located within the boundaries of the lot. The boundaries of each lot shall be shown by bearing and distance in relation to the monuments found or established on the ground in conformance with this Ordinance.
- (4) For developments within the corporate limits of the City, the proposed use for each lot shall be indicated on the plat, and in accordance with the City's Zoning Ordinance, as currently amended.
- (5) For developments outside the corporate limits of the City, but within the City's extra-territorial jurisdiction, the proposed use for each lot shall be indicated on the plat, and consistent with similar uses as defined in City's Zoning Ordinance, as currently amended.
- (6) All lots shall have four (4) sides and conform to the depth-to-width ration specified in paragraph (8) below, except when the street alignment is curved, in order to conform with other provisions of this Ordinance.
- (7) No lot shall have a corner intersection of less than forty-five (45) degrees.
- (8) The ratio of average depth to average width shall not exceed three to one (3:1) or have a frontage of less than eighty-five feet (85') nor be less than one to one (1:1) unless the lot is at least one and one-half (1.5) times the required lot size, unless both the depth and width of the lot exceed the minimums required in this Ordinance, and the City finds that the proposed lot dimensions are consistent with surrounding development and the Master Plan.

- (9) All lots shall face and have contiguous frontage on a usable, dedicated public road right-of-way except lots within a PUD which may have similar frontage on a private street under common ownership. The extent of this frontage (front line) shall conform to the minimum lot width requirements set forth in the City's Zoning Ordinance.
- (10) Except as otherwise approved through the granting of a variance, all lots shall face a similar lot across the street.
- (11) Lot lines common to the street right-of-way line shall be the front line. Side lot lines shall project away from the front line at approximately at right angles to street lines and radial to curved street lines. The rear line shall be opposite and approximately parallel to the front line.
- (i) The length and bearing of all lot lines shall be indicated on the plat; and
  - (iii) Wherever feasible, lots arranged such that the rear line of a lot or lots is also the side line of an adjacent lot shall be avoided. When this occurs, ten (10) feet shall be added to the minimum lot width and the side building line adjacent to the rear yard of another lot.
- (12) Lot area, width, and depth shall conform to the requirements as established in the Zoning Ordinance. For developments outside the corporate limits of the City, but within the City's extraterritorial jurisdiction, lot size shall be consistent with similar uses as defined in the Zoning Ordinance.
- (13) Double Frontage Lots.
- (i) Residential lots shall not take access on two (2) non-intersecting local and/or collector streets; and,
  - (ii) Residential lots adjacent to an arterial street shall also have frontage on a local street. Vehicular access to these lots shall be from the local street only. Non-residential lots with double frontage shall have off-set access points to inhibit cut-through traffic.
- (14) Reverse Frontage Lots. Residential lots with rear yards facing highways, access roads, and major or minor arterial streets should be at least 130 feet in depth so as to provide adequate rear yard area for screening and buffering of the rear of the structure, as required by this Ordinance.
- (15) Corner Lots.
- (i) Lots having frontage on two (2) or more intersecting streets shall be classified as corner lots;
  - (ii) Corner lots adjacent to streets of equal classification shall have only one (1) access driveway on either of the intersecting streets, except as otherwise approved by the Commission;
  - (ii) Corner lots adjacent to streets of unequal classification shall access the lower classification street only and only one (1) drive approach shall be allowed, except as otherwise approved by the Commission;
  - (iii) Corner lots shall contain at least one (1) street side building setback line; and
  - (iv) Corner residential lots shall be ten (10) feet wider than the average interior lot on the same block.
- (16) Building Setback Lines.

- (i) Each lot shall have a building setback line, which runs parallel to the property line.
  - (ii) The front and rear building setback lines shall run between the side lot lines.
  - (iii) The side building setback lines, and street side building setback lines for corner lots, shall extend from the front building setback line to the rear building setback line.
  - (iv) The building setback line for each designated lot shall conform to the City's Zoning Ordinance, as currently amended. For developments outside the corporate limits of the City, but within the City's extra-territorial jurisdiction, building setback lines shall be consistent with similar uses as defined in the Zoning Ordinance.
  - (v) All building setback lines shall be indicated on the subdivision plat. For non-residential developments, a note stating that "all building setback lines shall be in accordance with the City's current Zoning Ordinance" shall be placed on the subdivision plat.
- (17) Yard Areas. The area between the property line and the front, side or rear building setback line shall be the required front, side and rear yard areas, respectively.
- (i) No structure or impervious construction shall be allowed in the front yard area except for fences, driveways, sidewalks, utility distribution lines and appurtenances within dedicated easements and rights-of-way, and/or drainage structures; and,
  - (ii) No structures or impervious construction shall be allowed in required side or rear building setback areas except for the following accessory structures on one (1), two (2) or three (3) family residential lots:
    - a) Swimming pools located at least three (3) feet from the property line and screened by a six (6) foot tall privacy fence;
    - b) Playscapes not taller than nine (9) feet above mean grade, located at least three (3) feet from the property line and screened by a six (6) foot tall privacy fence;
    - c) Satellite dishes or telecommunications devices not taller than nine (9) feet above mean grade, located at least three (3) feet from the property line and screened by a six (6) foot tall privacy fence; and/or,
    - d) Driveways to side entry garages.
- (18) Lot Access.
- (i) A minimum of one (1) all-weather access area (either individually, or common to more than one lot) or driveway shall be provided for connecting the lot to an existing or proposed dedicated public street. An exception may be made for lots within a Planned Unit Development which may have similar access to a private street. Each lot shall front upon a public street or, in the case of a Planned Unit Development, have access by way of access easement sufficient to meet the requirements of the Standard Fire Prevention Code.
  - (ii) All driveway approaches shall be constructed to conform with the provisions of this Ordinance.
- (19) Lot Numbering.

- (i) All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.
  - (ii) Any lot(s) being resubdivided shall be renumbered utilizing the original lot number, followed by a letter designation starting with A.
- (20) Lot Easements. Public utility easements on side and rear lot lines shall be required as needed to accommodate public utility and drainage appurtenances, and as specified in this Ordinance.
- (21) Lot Drainage. Lot drainage shall be in conformance with the requirements of this Ordinance.

**Section VII - 3. Water Utility Improvements.**

(a) **Policy.** Developers shall be responsible for providing an approved public water supply system consistent with the Master Plan, this Ordinance and the rules and regulations of the entity providing or to provide water to the development from the Kempner Water Supply Corporation.

(1) Where an approved public water supply or distribution main is within reasonable distance of the subdivision as determined by the Commission, but in no case more than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to connect to the system and to bear the cost of connecting the development to such existing water supply. In some instances, the City may request that the main water connection be oversized or rerouted to suit future water system improvements in that area.

(2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed storage facilities, treatment facilities, and specific distribution lines as determined necessary by the City. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.

(b) **Public Water System Design.** The design and construction of a public water system shall:

(1) Comply with regulations covering extension of public water systems adopted by the Texas Natural Resources Conservation Commission;

(2) Be of sufficient size to furnish adequate domestic water supply and fire protection services to all lots, and to conform with the requirements of the Kempner Water Supply Corporation ("KWSC");

(3) Be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities;

(4) Be designed in an effort to eliminate the need for booster pumps or other similar devices;

(5) Not propose water mains less than eight (8) inches in diameter, with consideration for four (4) and six (6) inch pipe in cul-de-sacs and looped streets;

(6) Be acceptable, without penalty, to the State Fire Insurance Commission. To that end, the following fire flows shall be required, subject to the resources of the KWSC:

- (i) Principal mercantile and industrial areas      3,000 gpm
- (ii) Light mercantile areas                              1,500 gpm
- (iii) Congested residential areas                      750 gpm
- (iv) Scattered residential areas                        500 gpm

- (7) Include fire hydrants:
  - (i) At a minimum spacing of 600 feet for residential developments;
  - (ii) Within 300 feet of all sides of a non-residential development.
  - (iii) At the end of all cul-de-sac streets, or similar dead-end water distribution lines; and
  - (iv) For fire flows calculated with twenty (20) pound residual pressure.
- (8) Include valves on each fire hydrant lead, at each intersection of two (2) or more mains, and valve spacing so that no more than 30 customers will be without water during a shutoff;
- (9) Be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide water service to the development.

(c) **Private Water Systems Design.** The design of private water systems, if authorized, shall include backflow prevention assemblies for domestic and fire protection systems that are directly or indirectly connected to the City’s potable water distribution system.

**Section VII - 4. Wastewater Utility Improvements.**

(a) **Policy.** Developers shall be responsible for providing an approved wastewater system, consistent with the Master Plan, this Ordinance and the rules and regulations of the entity providing or to provide wastewater service to the development, throughout the development, such that all lots, parcels, or tracts of land will be capable of connecting to the wastewater system except as otherwise provided herein.

- (1) Where an approved public wastewater collection main is within reasonable distance of the subdivision as determined by the Commission, but in no case more than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to connect to the system and to bear the cost of connecting his development to such existing wastewater system. In some instances, the City may request that the main wastewater connection be oversized or rerouted to suit future wastewater system improvements in that area.
- (2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed lift station facilities, treatment facilities, and specific collection lines as determined necessary by the City. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.

(b) **Design.** The design and construction of wastewater collection systems, lift stations, inverted siphons and septic systems shall comply with regulations covering extension of public wastewater systems, and other applicable regulations, adopted by the Texas Natural Resources Conservation Commission and the Texas Department of Health. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.

- (1) All new public wastewater systems shall be designed and constructed to operate on a gravity flow basis by taking advantage of natural topographic conditions and thereby reducing the need for lift stations and force mains.
- (2) Flow determinations should include generally accepted criteria for average daily flow, inflow and infiltration, peaking factors, minimum slopes and minimum flow velocities.
- (3) The minimum size of any public wastewater line will be six (6) inches in diameter.
- (4) Public wastewater lines shall be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities. Minimum separation distance from water utilities shall be in accordance with the rules adopted by the Texas Natural Resource Conservation Commission.

(5) Manholes shall be located so as to facilitate inspection and maintenance, including intersections, horizontal alignment changes, vertical grade changes, change in pipe size or material, and force main discharge points.

(6) All wastewater systems shall be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide wastewater service to the development.

## **Section VII - 5. Transportation Improvements.**

(a) **Purpose.** The planning for a thoroughfare system is essential for the continued efficient movement of people and goods, and the Master Plan shall serve as a guide for the location and scale of future collector and arterial streets. The precise alignment of thoroughfares included in the Plan may be varied to allow adjustments that increase the compatibility of the right-of-way with natural or man made features such as steep slopes, waterways, wildlife habitats, neighborhoods, historic structures or existing roadways.

(b) **Policy.**

(1) All transportation improvements including streets, driveways, sidewalks, bikeways, traffic control, and parking areas within the City's jurisdiction shall be designed in accordance with the this Ordinance.

(2) Street layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the comprehensive plan of the City and professional urban planning and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood.

(3) Relation to adjoining street system. Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.

(4) Projection of streets. Where adjoining areas are not subdivided the arrangements of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.

(5) Street jogs. Whenever possible, street jogs with center line offsets of less than 125 feet shall be avoided.

(6) Street intersection. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography. No driveway may enter a street within 25 feet of any intersection.

(7) Dead-end Streets. Dead end streets shall be prohibited except as short stubs to permit future expansion.

(8) Cul-de-sacs. In general, cul-de-sacs shall not exceed 1200 feet in length from any intersection, and shall have a turnaround of not less than 150 feet in diameter with the paved area of the turnaround being a minimum 100 feet in diameter.

(9) Residential Street. Residential streets shall be laid out so as to discourage their use by through traffic.

(10) Pavement widths and rights-of-way for streets with curbs and sidewalks. Pavement widths, which shall be curb back to curb back, and rights-of-way shall be as follows:



(i) *Collector* streets shall have a right-of-way of at least 54 feet and an unobstructed pavement width of at least 44 feet, at least 24 feet of which shall be to sustain regular traffic, at least 20 feet, (10 feet on either side) shall be for on street parking, and at least 10 feet (five feet on either side) for curbs and sidewalks.

(ii) *Residential* streets shall have a right-of-way of at least 48 feet and an unobstructed pavement width of at least 40 feet, at least 24 feet of which shall be for regular traffic, at least 16 feet, (8 feet on either side) shall be for on street parking, and at least 8 feet (four feet on either side) for sidewalks.

(11) Pavement widths and rights-of-way for streets without curbs and sidewalks. Pavement width means that paved portion of a street designed and constructed to sustain vehicular traffic and is exclusive of any surface to be used to park vehicles or to contain, control, and direct *Design Storm* surface runoff. Similarly, the prepared base means that feature which is an extension of the underlayment for the pavement and is wider than the pavement. As required, the remainder of the right-of-way will be graded and otherwise prepared to contain, control, and direct *Design Storm* surface runoff in such a way that this runoff is not directed onto or through any lots except where a *Drainage Easement* is specified in the Plat. Any such grading or other preparations will be accomplished in a manner that avoids soil erosion and any other silting of the runoff.

(i) *Collector* streets shall have a right-of-way of at least 70 feet, a prepared base width of 38 feet, and an unobstructed pavement width of at least 24 feet.

(ii) *Residential* streets shall have a right-of-way of at least 60 feet, a prepared base width of 32 feet, and an unobstructed pavement width of at least 24 feet.

(c) Where the proposed subdivision abuts upon an existing street or half-street that does not conform to Paragraph b (10) of this section, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conform to paragraph b (10), and there shall be paved so much of such right-of-way as to make the full pavement width comply with Paragraph b (10). Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back 2 feet to assure an adequate sub-base and pavement joint.

(d) Street Signage. Street signs with the name of each street in the subdivision shall be installed by the developer at all intersections within the subdivision and will be placed to face traffic as it approaches that street from another street. Additionally, street signs shall be installed by the developer at all intersections of subdivision streets with streets, roads, and highways immediately adjacent to the subdivision and placed in the manner specified above. All signs shall be designed and constructed following reasonable standards for readability and durability, and will conform to local 9-1-1 standards.

(e) Curbs and Sidewalks. Curbs and sidewalks shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision immediately adjacent to a proposed development when any or all of the lots in a block have a frontage of less than 125 feet. This minimum frontage does not apply to lots that front on cul-de-sacs or sharply curving streets provided the lots have a width of 125 feet as measured 40% of the distance from the front property line to the rear property line.

(1) Curbs shall be of adequate design to contain, control, and direct *Design Storm* surface runoff in such a way that this runoff is not directed onto or through any lots except where a *Drainage Easement* is specified in the Plat.

(2) Sidewalks shall meet the width requirements of (b) (10) above. At intersections and driveways, they shall have transition ramps to allow use of wheelchairs, child strollers, *etc.* The edge of the sidewalk nearest the lot will be as close to the front property line as practicable.

(f) **Street Signage.** Street signs shall be installed by the developer at all intersections within and immediately adjacent to a proposed development, and shall be designed and constructed following reasonable standards for readability and durability.

**Section VII - 6. Drainage Improvements.**

(a) **Purpose.** The drainage improvement provisions contained herein are deemed necessary for the following reasons:

- (1) Waterways and their associated watersheds within the City's territorial jurisdiction represent significant and irreplaceable recreational and aesthetic resources and contribute directly to the City's public health.
- (2) The continued economic growth of the City is dependent on an adequate quality and quantity of stormwater runoff, a pleasing natural environment, recreational opportunities in close proximity to the City as well as the protection of people and property from the hazards of flooding.
- (3) All watersheds within the City's jurisdiction, and especially those with abrupt topography, sparse vegetation, and thin and easily disturbed soil, are vulnerable to flooding due to unregulated development activities.
- (4) All watersheds within the City's jurisdiction are undergoing development or are facing development pressure.
- (5) If watersheds within the City's jurisdiction are not developed in a sensitive and innovative manner, their water resources, natural environment, and recreational characteristics may be irreparably damaged.
- (6) The City should regulate all drainage within the City's jurisdiction for the public benefit and safety, including both the existing and future generations of citizens of the City, as well as for downstream users of the each waterway within the City's territorial jurisdiction.

(b) **Policy.**

- (1) All drainage improvements within the City's jurisdiction shall be designed in accordance with good engineering practices sufficient to prevent flooding outside of designated flood and drainageways, the flooding of property developed for buildings and structures, an to prevent an increase of the volume or speed of water downstream.
- (2) The Commission shall not recommend approval or approve any plat or plan which does not meet the minimum requirements of this Ordinance in making adequate provisions for control of the quantity of stormwater runoff to protect the public health, safety and property, and benefit the present and future owners of property within the development, other lands within the City and neighboring areas.
- (3) It shall be the responsibility of the developer to design and construct a system for the collection and transport of all stormwater runoff flowing into, and generated within the development, in accordance with:
  - (i) The requirements of this Ordinance.
  - (ii) Good engineering practices.
  - (iii) Approved engineering plans for construction.

- (iv) The regulations and principles of law established pursuant to the Texas Water Code.
- (4) In general, drainage improvements shall be designed and constructed in a manner which promotes the development of a network of both natural and built drainageways throughout the community and so as to:
- (i) Retain natural flood plains in a condition that minimizes interference with flood water conveyance, flood water storage, aquatic and terrestrial ecosystems, and ground and surface water.
  - (ii) Reduce exposure of people and property to the flood hazards and the nuisances associated with inadequate control of stormwater runoff.
  - (iii) Systematically reduce the existing level of flood damages.
  - (iv) Ensure that corrective works are consistent with the overall goals of the City.
  - (v) Minimize erosion and sedimentation problems and enhance water quality.
  - (vi) Protect environmental quality, social well-being and economic stability.
  - (vii) Plan for both the large flooding events and the smaller, more frequent flooding events by providing both major and minor drainage systems.
  - (viii) Minimize future operational and maintenance expenses.
  - (ix) Reduce exposure of public investment in utilities, streets and other public facilities (infrastructure).
  - (x) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public.
  - (xi) Acquire and maintain a combination of recreational and open space systems utilizing flood plain lands.

**Section VII - 7. Easements.**

- (a) All existing and proposed easements, safety lanes, and rights-of-way shall be clearly indicated on the plat or plan, as well as an indication to the use of each easement or right-of-way.
- (b) No permanent structure may be placed in or over any easement or right-of-way except a structure whose use and location are necessary to the designated use of the right-of-way or easement or which otherwise will not affect the use, maintenance or repair of such easement.
- (c) The width and alignment of all easements or rights-of-way to be dedicated shall be determined by the City Engineer, any applicable utility provider and the Commission, and approved by the Commission, and shall be accompanied by a notarized statement of dedication on the plat.
- (d) Easements shall be established and dedicated for all public utility and drainage appurtenances, including common access areas, and other public uses requiring dedication of property rights.
- (e) In so far as practicable, easements shall not be centered on a property line, but shall be located entirely on one (1) side of a lot.

**ARTICLE VIII - PARK LAND DEDICATION**

**Section VIII - 1. Park Land Dedication.**

- (a) **Dedication of Public Park Land Required.** It shall be required that a developer of any residential subdivision within the City make a financial contribution for the acquisition of public park

land and/or other recreational improvements and amenities that contribute to and enhance the quality of life in the City in accordance with the provisions of this Ordinance.

(b) **Park Fund Established.** A separate fund to be entitled "Park Fund" shall be and is hereby created and the money paid by developers at Final Plat approval in-lieu of the dedication of land and interest thereon, shall be held in said fund in trust to be used solely and exclusively for the purpose of purchasing and/or equipping public park and recreational land. Such fund shall be invested or held in an interest bearing account and all earnings and interest shall accrue to the Park Fund.

(1) At such time as the City Council, based upon the recommendations of the Commission and/or City staff determines that there are sufficient funds derived from a certain area in the Park Fund to purchase usable park land, the Council shall cause negotiations to be undertaken to purchase the site by mutual agreement or by condemnation proceedings. In making such determination for the purchase of said site, the conditions of this Ordinance shall be taken into consideration.

(2) The principal and interest deposited and kept in the Park Fund shall be used solely for the purpose of purchasing and/or equipping or improving land for public park and recreation uses, and shall never be used for maintaining or operating public park facilities, or for any other purpose.

## **ARTICLE IX - MULTI-FAMILY, TOWNHOUSE OR GARDEN HOME SUBDIVISIONS**

For multi-family, townhouse or garden home subdivisions, adequate provision shall be made by the subdivider for common ownership and maintenance of community facilities such as recreation and open space, parking, access and similar common use areas. The subdivider shall also furnish deed restrictions limiting the property to multi-family, townhouse or garden home use and provide disposition and maintenance covenants for all open space or other common ownership areas. Such restrictions shall be recorded at the time of plat recordation.

## **ARTICLE X - MANUFACTURED HOMES**

### **Section X - 1. Manufactured Home Regulations.**

**Purpose.** The purpose of this Article is to achieve orderly development of manufactured home communities and subdivisions, to promote and develop the use of land to assure the best possible community environment, and to protect and promote the health, safety, and general welfare.

### **Section X - 2. Manufactured Home Subdivisions**

The terms, *Manufactured Home*, *Manufactured Home Community*, *Manufactured Home Rental Community*, and *Manufactured Home Subdivision* are defined in **ARTICLE IV - DEFINITIONS**. Unless exempted by some provision of state law, *Manufactured Home Community*, *Manufactured Home Rental Community*, and *Manufactured Home Subdivision* each are "subdivisions" within the meaning of the Kempner Subdivision Ordinance. Manufactured Home Subdivisions must comply with all requirements and provisions on the same basis as subdivisions that do not include manufactured homes except as specified in **Section X - 4**.

### **Section X - 3. Definitions.**

*Sale* - as used in this Article means any and all transactions in which legal, beneficial, or equitable ownership of the space or lot is transferred to another. It is immaterial whether such transfer occurs by deed, contract of sale, option contract, lease-purchase, long-term ground lease, or any other method. Without limitation to the foregoing, "sale" includes both (1) any rental or lease agreement for a term of 60 months or more and (2) any rental or lease agreement with a purchase option.

## **Section X - 4. Requirements and Standards Unique to Manufactured Home Communities and Subdivisions**

- (a) Assumption of business enterprise.
  - (1) By their nature, all manufactured home communities and subdivisions are hereby assumed to be created, developed, and operated as business enterprises. The construction and maintenance of all improvements is a normal function of conducting such a business enterprise.
  - (2) This assumption is vacated if and when all platted lots in a Manufactured Home Subdivision are sold to individual lot owners with no residual business ties to the original developer/subdivider, *i.e.*, no buy back provisions in the terms of the sale, no financing by the original developer/subdivider whereby the lots might revert by foreclosure or other default, or any other provision(s) whereby the original developer/subdivider retains or may exercise ownership privileges over any or all of the lots. Additionally, all common user areas to include streets and recreational areas must be deeded to all lot owners equally. An "owners association" composed exclusively of individual owners each independent of the original developer/subdivider and each having one vote shall be construed as a significant indicator that the subdivision is no longer operated as a business enterprise. An individual lot owner with no residual business ties to the original developer/subdivider may own more than one lot which may be rented for residential occupancy without reestablishing the business enterprise assumption provided that that individual lot owner is bound by the one vote provision.
- (b) The streets in these communities shall be built to the same standards as required for subdivisions.
  - (1) The street specification must include adequate provision for roadway maintenance to guarantee future ingress and egress by fire and emergency vehicles. It may meet this requirement by either
  - (2) Dedicating the roadways to the public. The City will not accept dedicated rights-of-way for public maintenance if the Manufactured Home Community or Subdivision is operated as a business enterprise. Every future lease or rental agreement will inform the tenants that the City will never maintain any road or street as long as the Community or Subdivision is operated as a business enterprise.
  - (3) Provided that a Manufactured Home Subdivision is no longer operated as a business enterprise, the City will accept dedicated rights-of-way for public maintenance only if their current condition complies with all applicable current standards, and only upon the earlier of two years from issuance of the certificates of completion or posting of an adequate two-year maintenance bond. (or) providing an adequate financing mechanism for private maintenance. The private maintenance plan must contain a covenant that every future lease or rental agreement will inform the tenants that the City will never maintain any road or street in the community under any circumstances.
- (c.) Lots:
  - (1) To insure placement and removal of manufactured homes, lots in a manufactured home community shall front on a street of not less than sixty (60) feet width right-of-way.
  - (2) The minimum size for lots served with individual sewage disposal system shall be as prescribed by the TNRCC.
  - (3) Each lot shall be identified in accordance with 911 addressing procedures.

(e.) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to the following (refer to FEMA Manual #85, Manufactured Home Installation in Flood Hazard Areas):

- (1) Over-the-top ties at each of the four (4) corners of the manufactured home with two (2) additional ties per side at intermediate locations. Manufactured home more than fifty (50) feet long require one (1) additional tie per side.
- (2) Frame ties at each corner of the home with five (5) additional ties per side at intermediate points. Manufactured homes more than fifty (50) feet long require four (4) additional ties per side.
- (3) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.

**Section X - 5. Other Regulatory Agencies** . Other agencies with regulatory authority that may apply to a Manufactured Home Community or Subdivision may include, but are not limited to, Emergency Services Districts, the Texas Natural Resources Conservation Commission and Public Utilities Commission, the United States Parks and Wildlife Service and Environmental Protection Agency, and the U.S. Army Corps of Engineers.

**Section XI. Severability**. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

**Section XII. Code of Ordinances**. It is the intention of the Council that this ordinance shall become a part of the Code of Ordinances of the City of Kempner, Texas, and may be renumbered and codified therein accordingly.

**Section XIII. Effective Date**. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code, and it is accordingly so ordained.

**Section XIV. Open Meetings**. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt 511, Tex. Gov't. Code.*

**PASSED AND APPROVED on this the 20th day of November, 2001.**

**ATTEST:**

**CITY OF KEMPNER, TEXAS**

\_\_\_\_\_  
Frances Spinney, City Secretary

\_\_\_\_\_  
Roger Fancher, Mayor